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Attorney Docket No. P24519

In re application of: Helmut SCHWARZ

Application No. : 10/718,593

Filed : November 24, 2003

For : DETACHABLE CONNECTION ARRANGEMENT

Mail Stop Amendment
Group Art Unit: 3677

Examiner: K. W. MITCHELL

Mail Stop Amendment

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Transmitted herewith is an **Election with Traverse** in the above-captioned application.

_____ Small Entity Status of this application under 37 C.F.R. 1.9 and 1.27 has been established by a previously filed statement.

_____ A verified statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.

_____ A Request for Extension of Time.

☒ No additional fee is required.

The fee has been calculated as shown below:

Claims After Amendment	No. Claims Previously Paid For	Present Extra	Small Entity		Other Than A Small Entity	
			Rate	Fee	Rate	Fee
Total Claims: 50	50	0	x 9=	\$0.00	x 18=	\$
Indep. Claims: 3	3	0	x 44=	\$0.00	x 88=	\$
Multiple Dependent Claims Presented			+150=	\$0.00	+300=	\$
Extension Fees for ___ Month(s)				\$0.00		\$
Total:				\$0.00	Total:	\$

* If less than 20, write 20

** If less than 3, write 3

_____ Please charge my Deposit Account No. 19-0089 in the amount of \$_____.

N/A A check in the amount of \$_____ to cover the filing/extension fee is included.

X The U.S. Patent and Trademark Office is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 19-0089.

X Any additional filing fees required under 37 C.F.R. 1.16.

X Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 C.F.R. 1.136(a)(3)).

Neil F. Greenblum
Reg. No. 28,394

Robert W. Mueller
Reg. No. 35,043

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Helmut SCHWARZ

Confirmation No.: 1224

Serial No : 10/718,593

Art Unit: 3677

Filed : November 24, 2003

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For : DETACHABLE CONNECTION ARRANGEMENT

ELECTION WITH TRAVERSE

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Window, Mail Stop Amendment
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

In response to the Examiner's restriction requirement of March 8, 2005, the time set for response being April 8, 2005, Applicant hereby elects the invention of Group I, and the species shown in Figs. 2 and 3. Applicant submits that claims 1-45 and 50 are readable on the elected Group and species. Applicant also submits that claims 1-45 and 50 are generic to the elected species. Thus, Applicant requests examination of at least claims 1-45 and 50.

The above election is made with traverse for the reasons set herein below:

In the Official Action of March 8, 2005, the Examiner indicated that all claims (i.e., claims 1-49) were subject to restriction under 35 U.S.C. § 121. Applicant notes, however, that the Examiner failed to note that claim 50 is also pending. Because claim 50 is directed to a connecting system, Applicant submits that this claim is encompassed in Group 1.

The Examiner restricted the claimed invention into Group I, including claims 1-45 (and presumably claim 50 as well), drawn to a multipart connector, classified in class 411, subclass 433, and Group II, including claims 46-49, drawn to a method of connecting, classified in class 29, subclass 718.

The Examiner asserted that the inventions were related as product and process of use, and that the inventions are distinct from each other under M.P.E.P. § 806.05(h) because "the method of use does not require the vibration-dampening member of the multipart connector."

In addition to the restriction of inventions, the Examiner indicated that, an election of one of the following species would also be required:

Species directed to a connection system with multipart flanges on the fastener receiver shown in Figure 1; and

Species directed to a connection system with a single flange on the fastener receiver shown in Figures 2 and 3.

The Examiner did not note whether any claims were generic.

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As noted above, Applicant has elected the invention of Group I, i.e. claims 1-45 and 50, and further elected the species directed to a connection system with multipart flanges on the fastener receiver shown in Figures 2 and 3. Applicant submits that at least claims 1-45 and 50 read on the elected Species and that these claims are generic to both species.

Applicant respectfully submits that the restriction requirement is improper at least because method claims 46-49 depend from connector claim 1. Moreover, the species requirement is improper because there are no claims which recite only a connection system with multipart flanges on the fastener receiver or only a connection system with a single flange on the fastener receiver. Applicant notes, for example, that dependent claims 14, 20 and 36 do not preclude either embodiment as they recite the single flange and the multi-projection flange in the alternative.

Additionally, Applicant notes that Examiner has omitted one of the two criteria for a proper restriction requirement now established by the U.S. Patent and Trademark Office policy. That is, as set forth in M.P.E.P. § 803, "an appropriate explanation" must be advanced by the Examiner as to the existence of a "serious burden" if restriction were not required.

While the Examiner has alleged a possible distinction between the two identified groups of invention, the Examiner has not shown that a concurrent examination of these groups, and each species, would present a "serious burden." In fact, the Examiner has failed

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to acknowledge that the claims from Group II depend from the claims of Group I, and has failed to provide an appropriate statement that the search areas required to examine the invention of Group I would not overlap into the search areas for examining the invention of Group II, and vice versa.

Accordingly, Applicant respectfully submits that the search for the combination of features recited in the claims of the above-noted groups, and the individual species, if not totally co-extensive, would appear to have a very substantial degree of overlap, at least because claims 46-49 depend from claim 1. Because the search for each group and species of invention is substantially the same, Applicant submits that no undue or serious burden would be presented in concurrently examining Groups I and II (including each identified species). Thus, for the above-noted reasons, and consistent with the Office policy set forth above in M.P.E.P. § 803, Applicant respectfully requests that the Examiner reconsider and withdraw the restriction and species requirement in this application.

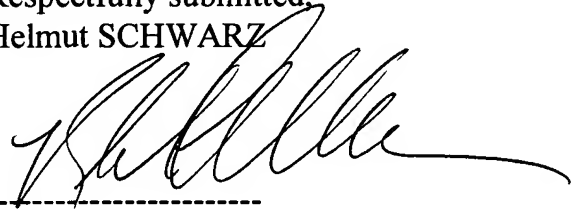
For all of the above reasons, the Examiner's restriction is believed to be improper. Nevertheless, Applicant has elected, with traverse, the invention defined by Group I and the species directed to a connection system with multipart flanges on the fastener receiver, i.e., claims 1-45 and 50, in the event that the Examiner chooses not to reconsider and withdraw the restriction or species requirement.

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Please charge any additional fees necessary for consideration of the papers filed herein and refund excess payments to Deposit Account No. 19-0089.

Should the Examiner have any questions or comments, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
Helmut SCHWARZ

A handwritten signature in dark ink, appearing to read 'Neil F. Greenblum', written over a horizontal dashed line.

Neil F. Greenblum
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April 5, 2005
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